

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Cambridge Municipal Court,	:	
	:	
Plaintiff	:	Civil Action 2:11-cv-00783
	:	
v.	:	Judge Marbley
	:	
Gerry Ruff-El,	:	Magistrate Judge Abel
	:	
Defendant	:	

**Report and Recommendation and
Deficiency Order**

Gerry Ruff-EL purports to remove this action from the Cambridge Municipal Court.¹ The Magistrate Judge RECOMMENDS that Ruff-El's request to proceed *in forma pauperis* be DENIED. Although he seeks leave to proceed *in forma pauperis*, he does

¹The procedural posture of this case is unclear. Although El-Ruff identifies himself as a defendant and seeks to remove the case to federal court, it is not clear what the underlying case is. The plaintiff is identified as Cambridge Municipal Court. The "notice" states that plaintiff seeks the dismissal "of all charges with prejudice to keep from further violating our rights" and "a hearing on the Constitutionality of the statutes limiting my right to travel freely and unencumbered as relating to my fundamental God given rights, the right of life, the right of liberty, freedom of thought, and pursuit of happiness. Even after dismissal of all charges we want the Constitutionality cleared up once and for all. My rights have been violated by these statutes and I want it to stop. I have a right to be let alone and not harassed by government intrusion." Doc. 1-2 at 7-8. Under *Younger v. Harris*, 401 U.S. 37 (1971), federal courts will not interfere with ongoing criminal proceedings being carried out by a state government, even in the face of alleged constitutional violations. *Younger*, 401 U.S. at 44-45. Three requirements must be met for *Younger* abstention to be appropriate: 1) there must be an ongoing state judicial proceeding, 2) the proceeding must implicate important state interest; and 3) there must be an adequate opportunity in the state proceeding to raise constitutional challenges. *Sun Refining & Mktg. Co. v. Brennan*, 921 F.2d 635, 639 (6th Cir.1990).

not support that request with a financial affidavit demonstrating that he does not have the funds to pay the \$350 filing fee.

In his request to proceed *in forma pauperis*, Ruff-El argues that it is unconstitutional for the Court to charge a fee and that requiring him to submit a financial affidavit violates his rights to due process. Ruff-EL's argument is without merit. He has not been denied access to the court. If he is unable to pay the court filing fee, he will be permitted to proceed *in forma pauperis*. Before he will be permitted to proceed without payment of fees, however, El-Ruff must demonstrate that he is indigent.

Plaintiff is **ORDERED** to fill out and execute the Non-Prisoner Declaration in Support of Request to Proceed Without Prepayment of Fees and Costs **within thirty (30) days of the date of this Order**. Failure to either pay the \$350 filing fee or to support the motion to proceed *in forma pauperis* with a financial affidavit will result in dismissal of this lawsuit.

If any party objects to this Report and Recommendation, that party may, within fourteen (14) days, file and serve on all parties a motion for reconsideration by the Court, specifically designating this Report and Recommendation, and the part thereof in question, as well as the basis for objection thereto. 28 U.S.C. §636(b)(1)(B); Rule 72(b), Fed. R. Civ. P.

The parties are specifically advised that failure to object to the Report and Recommendation will result in a waiver of the right to *de novo* review by the District Judge and waiver of the right to appeal the judgment of the District Court. *Thomas v.*

Arn, 474 U.S. 140, 150-152 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981); *United States v. Sullivan*, 431 F.3d 976, 984 (6th Cir. 2005); *Miller v. Currie*, 50 F.3d 373, 380 (6th Cir. 1995). Even when timely objections are filed, appellate review of issues not raised in those objections is waived. *Willis v. Sullivan*, 931 F.2d 390, 401 (6th Cir. 1991).

s/Mark R. Abel
United States Magistrate Judge

The fee for filing a complaint is \$350. If you are unable to pay that fee, you may execute the following form, asking the Court to allow you to proceed without the prepayment of fees.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

_____ ,	:	
Plaintiff	:	Case No.
v.	:	Declaration in
	:	Support of Request to
	:	Proceed Without Prepay-
	:	ment of Fees and Costs
_____ ,	:	
Defendant	:	

I, _____, am the plaintiff in the above-entitled case. In support of my motion to proceed without being required to prepay fees or costs or give security therefor, I state that because of my poverty I am unable to pay the costs of said proceedings or to give security therefor; and that I believe I am entitled to redress.

I declare that the responses which I have made below are true.

1. Are you presently employed? ☐ Yes ☐ No
 - a. If the answer is yes, state the amount of your salary and give the name and address of your employer.

Salary - Wages

() yearly

() monthly

\$ _____ () bi-weekly

() weekly

Employer's name _____

Address _____

- b. If the answer is no, state the date of last employment and the amount of the salary you received.

Date of last employment _____

Salary - Wages

() yearly
() monthly
\$_____ () bi-weekly
() weekly

2. Have you received within the past 12 months any money from any of the following sources?

- a. Business, profession, or form of self-employment?

_____ Yes _____ No

- b. Rent payments, interest or dividends? _____ Yes _____ No

- c. Pensions, annuities, or life insurance payments?

_____ Yes _____ No

- d. Gifts or inheritances? _____ Yes _____ No

- e. Social security, supplemental security income, AFDC, general relief? _____ Yes _____ No

If the answer to any of the above is yes, describe each source of money and state the amount received from each during the past 12 months.

3. Do you own any cash or do you have money in a checking or savings account? _____ Yes _____ No

If the answer is yes, state the total value owned.

Cash \$_____

Checking \$_____

Savings \$_____

4. Do you own real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings or clothing)? _____ Yes _____ No

If the answer is yes, describe the property and state its

approximate value.

<u>Make</u>	<u>Value</u>
Autos _____	\$ _____
_____	\$ _____
Stocks _____	\$ _____
_____	\$ _____
Bonds _____	\$ _____
_____	\$ _____
Notes _____	\$ _____
Real Estate _____	\$ _____
Mortgage _____	\$ _____

5. List the persons who are dependent upon you for support; state your relationship to those persons; and indicate how much you contribute toward their support.

<u>Name</u>	<u>Relationship</u>	<u>Contribution</u>
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____

6. You are single ____, married ____, widowed ____, separated ____, or divorced ____.

If you are married, is your spouse employed? ____ Yes ____
No

If yes, how much does your spouse earn?
Salary - Wages () yearly

() monthly
 \$_____ () bi-weekly
 () weekly

7. List all your creditors, including banks, loan companies, credit companies, charge accounts, medical bills, etc.

<u>Creditors</u>	<u>Total Debt</u>	<u>Mo. Payment</u>
Apt. or Home _____	\$_____	\$_____
_____	\$_____	\$_____
_____	\$_____	\$_____
_____	\$_____	\$_____
_____	\$_____	\$_____

I declare under penalty of perjury that the foregoing is true and correct.

Signed this _____ day of _____, 20__.

 Signature of Plaintiff